

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BORIS O. BERGUS, )  
Plaintiff, ) CIVIL ACTION NO.  
v. ) 18-10323-DPW  
AGUSTIN M. FLORIAN, )  
Defendant. )

## JURY VERDICT FORM

I. 2012 INVESTMENT

A. Do you find it is more likely true than not that Dr. Florian was directly involved in the actual solicitation of securities purchased by Dr. Bergus in September 2012 (the "2012 Investment")?

(ANSWER "YES" OR "NO")

YES

If you answered "NO", then proceed to Section "II. 2014 Investment" on page 5 below. If you answered "YES," then proceed to Question B on page 2 below.

B. Do you find it is more likely true than not that Dr. Florian was motivated in his involvement in the actual solicitation of Dr. Bergus to make the 2012 Investment, at least in part, by a desire to benefit his own financial interests or the financial interests of the holder of the securities Dr. Bergus purchased in the 2012 Investment?

(ANSWER "YES" OR "NO")

YES

If you answered "NO", then proceed to Section "II. 2014 Investment" on page 5 below. If you answered "YES," then proceed to answer as to all of Question C on pages 2-3, below.

C. With respect to the 2012 Investment, do you find it is more likely true than not that Dr. Florian conveyed - by misrepresentation or omission - false or misleading information in soliciting Dr. Bergus to make the 2012 Investment?

**ANSWER AS TO ALL OF 1-6.**

1. Dr. Florian misrepresented to Dr. Bergus that the Company had an exclusive 50-year government contract to provide water and sewer services.

(ANSWER "YES" OR "NO")

No

2. Dr. Florian misrepresented that the Company owned the land on which the water and sewer treatment plants were built.

(ANSWER "YES" OR "NO")

No

3. Dr. Florian misrepresented to Dr. Bergus that Dr. Florian had invested \$1 million in the Company.

(ANSWER "YES" OR "NO")

No

4. Dr. Florian misrepresented to Dr. Bergus that the Juliaca Project was nearly complete and in its "final stage."

(ANSWER "YES" OR "NO")

No

5. Dr. Florian misrepresented that the Company had an estimated sales value of \$8,000,000.

(ANSWER "YES" OR "NO")

No

6. Dr. Florian omitted to tell Dr. Bergus that the Mayor of Juliaca had demanded a bribe.

(ANSWER "YES" OR "NO")

Yes

If your answer to ANY of the alleged false or misleading information identified in 1-6 is "YES", proceed to question D on page 4 below. If you answered "NO" with respect to ALL of the information identified in 1-6, proceed to Section "II. 2014 Investment" on page 5 below.

D. Do you find it is more likely true than not that Dr. Florian knew any of the information was false or misleading at the time he conveyed it to Dr. Bergus?

**(IDENTIFY ANY SUCH INFORMATION BY NUMBER: i.e. 1,2,3,4,5, or 6)**

6.

E. Do you find it is more likely true than not that Dr. Florian could have known in the exercise of reasonable care - before he conveyed it to Dr. Bergus - that any of the information conveyed by him to Dr. Bergus was false and misleading?

**(IDENTIFY ANY SUCH INFORMATION BY NUMBER: i.e. 1,2,3,4,5, or 6)**

6.

F. Do you find it is more likely true than not that Dr. Bergus knew - before Dr. Florian conveyed it to him - that any of the information conveyed to him by Dr. Florian was false or misleading?

**(IDENTIFY ANY SUCH STATEMENT BY NUMBER: i.e. 1,2,3,4,5, or 6)**

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G. Do you find it is more likely true than not that Dr. Bergus could have known in the exercise of reasonable care - before Dr. Florian conveyed it to him - that any of the information conveyed to him by Dr. Florian was false or misleading?

**(IDENTIFY ANY SUCH STATEMENT BY NUMBER: i.e. 1,2,3,4,5, or 6)**

1,2,3,4,5.

**II. 2014 INVESTMENT**

A. Do you find it is more likely true than not that Dr. Florian was directly involved in the actual solicitation of securities purchased by Dr. Boris Bergus in May 2014 (the "2014 Investment")?

(ANSWER "YES" OR "NO")

N<sub>o</sub>

**If you answered "NO", then proceed to the end of this Verdict Form. If you answered "YES," then proceed to Question B below on this page.**

B. Do you find it is more likely true than not that Dr. Florian was motivated in his involvement in the actual solicitation of Dr. Bergus to make the 2014 Investment, at least in part, by a desire to benefit his own financial interests or the financial interests of the holder of the securities Dr. Bergus purchased in the 2014 Investment?

(ANSWER "YES" OR "NO")

\_\_\_\_\_.

**If you answered "NO", then proceed to the end of this Verdict Form. If you answered "YES," then proceed to answer as to all of Question C on pages 6-8 below.**

C. With respect to the 2014 Investment, do you find it is more likely true than not that Dr. Florian conveyed - by misrepresentation or omission - false or misleading information in soliciting Dr. Bergus to make the 2014 Investment?

**ANSWER AS TO ALL OF 1-8.**

1. Dr. Florian misrepresented that between the time of Dr. Bergus's first investment in September 2012, and the April 2014 meeting, the Company was doing well and had merely suffered a "few hiccups."

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

2. Dr. Florian misrepresented that the Company was "expanding" to be a "mega project" and had two contracts with two cities, Juliaca and Caracoto.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

3. Dr. Florian misrepresented that as a result of the expansion, the Company would have a substantially greater sales value - approximately \$25 million.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

4. Dr. Florian misrepresented that the Company had acquired more land in connection with the expansion to include both Juliaca and Caracoto and now owned 3 parcels of land.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

5. Dr. Florian misrepresented that the Company had all of the necessary government grants and permits and had "full authority" for both Juliaca and Caracoto.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

6. Dr. Florian misrepresented that the Project was near completion and that the \$250,000 was needed to finish the Project and go to market within approximately 90 days and sell the Company.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

7. Dr. Florian omitted to tell Dr. Bergus that after the Mayor of Juliaca had demanded a bribe, the Company had lost the Concession for Juliaca.

**(ANSWER "YES" OR "NO")** \_\_\_\_\_.

8. Dr. Florian omitted to tell Dr. Bergus that the Mayor of Caracoto had also demanded a bribe in January 2014.

(ANSWER "YES" OR "NO") \_\_\_\_\_.

If your answer to ANY of the alleged false or misleading information identified in 1-8 is "YES", proceed to question D below on this page. If you answered "NO" with respect to ALL of the information identified in 1-8, then proceed to the end of this Verdict Form.

D. Do you find it is more likely true than not that Dr. Florian knew any of the information was false or misleading at the time he conveyed it to Dr. Bergus?

(IDENTIFY ANY SUCH STATEMENT BY NUMBER: i.e. 1,2,3,4,5,6,7, or 8) \_\_\_\_\_.

E. Do you find it is more likely true than not that Dr. Florian could have known in the exercise of reasonable care - before he conveyed it to Dr. Bergus - that any of the information conveyed by him to Dr. Bergus was false and misleading?

(IDENTIFY ANY SUCH INFORMATION BY NUMBER: i.e. 1,2,3,4,5,6,7, or 8) \_\_\_\_\_.

F. Do you find it is more likely true than not that Dr. Bergus knew - before Dr. Florian conveyed it to him - that any of the information conveyed to him by Dr. Florian was false or misleading?

**(IDENTIFY ANY SUCH STATEMENT BY NUMBER: i.e. 1,2,3,4,5,6,7, or 8)**

\_\_\_\_\_.

G. Do you find it is more likely true than not that Dr. Bergus could have known in the exercise of reasonable care - before Dr. Florian conveyed it to him - that any of the information conveyed to him by Dr. Florian was false or misleading?

**(IDENTIFY ANY SUCH STATEMENT BY NUMBER: i.e. 1,2,3,4,5,6,7, or 8)**

\_\_\_\_\_.

Jan. 18, 2023  
DATE

Andrea Connely  
FOREPERSON